IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 12.01.2007

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice N.PAUL VASANTHAKUMAR

Civil Miscellaneous Appeal No.1873 of 2006
& CMP No.8498 of 2006

The Managing Director,
Tamil Nadu State Transport Corporation,
(Salem Division II) Ltd.,
Dharmapuri-5. ... Appellant/Respondent

Vs.

1.M.Selvam, S/o A.P.Madhayyan

2.Minor Harish, S/o M.Selvam

3.Minor Sindhu D/o M.Selvem
(Minors respondents 2 and 3
represented by father and next
friend M.Selvan, R-1)

4.C.M.Chandrasekarudu, S/o Munusamy Reddy

5.C.Vanaja, W/o C.M.Chandrasekarudu

6.C.Vimala, D/o C.M.Chandrasekarudu .. Respondents/Petitioners

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the award made in MCOP No.693 of 2001 dated 30.01.2002 on the file of the Motor Accidents Claims Tribunal (II Additional District Judge-cum-Chief Judicial Magistrate), Krishnagiri.

For Appellant : Mr.P.Jagadeeswaran

For respondents 1 to 3 : Mr.H.S.Mohammed Rafi

For respondents 4 to 6 : No appearance

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JUDGMENT

(Judgment of the Court was delivered by P.SATHASIVAM, J.)

By consent of both parties, the main appeal itself is taken up for disposal.

2. Aggrieved by the award of the Motor Accidents Claims Tribunal (II Additional District Judge-cum-Chief Judicial Magistrate), Krishnagiri, dated 30.01.2002 made in MCOP No.693 of 2001, the Managing Director, Tamil Nadu State Transport Corporation (Salem Division II) Ltd., Dharmapuri-5, has filed the above appeal.

3. Even at the outset, the learned counsel appearing for the appellant fairly states that they are mainly aggrieved only with regard to quantum of compensation determined by the Tribunal and in such circumstance, it is unnecessary for this Court to go into the findings relating to the negligence.

4. In respect of the death of one Nirmala in a motor vehicle accident that took place on 26.02.2001, her husband, two minor children, her parents as well as her sister filed the claim petition praying for compensation of Rs.25,00,000/-. The first claimant, who is the husband of the deceased Nirmala, was examined as PW1. According to him, his wife was aged about 29 years on the date of the accident. The Post-mortem certificate, which has been marked as Ex.P2 supported the above version. Claimants 2 and 3 are minor children of the deceased. One Kudiyannan, Assistant Educational Officer, Dharmapuri was examined as PW3. According to him, the deceased Nirmala was employed as Secondary Grade Teacher in a Government High School and she was getting salary of Rs.7,500/- per month. He also deposed that if she had continued in service, she would get annual increment of Rs.125/-. He also deposed that she has further period of 26 years of service. He further explained that after a period of 15 years, she is likely to be promoted as Headmistress and in that event, her salary would be Rs.12,000/- per month. Apart from his oral evidence as PW3, he also produced and marked the salary certificate of the deceased Nirmala as Ex.P4. There is no reason to disbelieve the version of PW3 and the Tribunal has rightly accepted his evidence. Based on his evidence and the details mentioned in Ex.P4, the Tribunal has concluded that it would be possible for the deceased to contribute atleast Rs.5,000/- to her family. In this way, the Tribunal arrived at her annual contribution at Rs.60,000/-. Taking note of her age at the time of the accident viz., 29 years, the Tribunal applied proper multiplier i.e., 18 and fixed a sum of Rs.10,80,000/- towards pecuniary loss to her family. In addition to the said amount, the Tribunal has granted Rs.10,000/- each in favour of her minor children viz., respondents 2 and 3 towards loss of love and affection and another sum of Rs.10,000/- in favour of her husband-first respondent towards loss of consortium. Considering the acceptable oral and documentary evidence, we concur with the conclusion arrived at by the Tribunal.

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5. Learned counsel appearing for the appellant contended that having arrived at a reasonable amount towards compensation, the Tribunal is not justified in awarding further compensation of Rs.5,00,000/- towards loss of future prospects. It is not in dispute that on the date of the accident, the deceased was working as Secondary Grade Teacher in a Government School. From the evidence of PW3, it would be possible for the deceased to get annual increment as well as increase in her emoluments. Taking note of the evidence of PW3 as well as other service particulars of the deceased, we feel that ends of justice would be met by granting a sum of Rs.4,00,000/- towards loss of future prospects as against the award of Rs.5,00,000/- granted by the Tribunal. Except the above said modification, we are not inclined to disturb the award of the Tribunal.

6. The Tribunal has also granted interest at the rate of 9%, which is also reasonable and acceptable. After arriving at the compensation, the Tribunal has apportioned the amount in favour of all the claimants. In view of our conclusion viz. reduction of Rs.1,00,000/- from the total compensation, we modify the apportionment of the compensation only in respect of the amount payable to the first claimant/first respondent herein, viz., husband of the deceased and instead of Rs.4,00,000/- the first claimant is entitled to Rs.3,00,000/-. In all other respects, we confirm the award of the Tribunal.

7. The award of the Tribunal is modified to the above extent and the Civil Miscellaneous Appeal is disposed of accordingly. No costs. C.M.P.No.8498 of 2006 is closed.

8. In view of the disposal of the main appeal, the appellant is directed to deposit the balance amount within a period of eight weeks from the date of receipt of a copy of this order.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

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To
1. The Motor Accidents Claims Tribunal,
[II Additional District Judge-cum-Chief Judicial Magistrate],
Krishnagiri.

2. The Section Officer, V.R.Section, High Court, Chennai.

+ 1 CC To Mr. P.Jagadeeswaran, Advocate SR NO. 2684

+ 1 CC To Mr. S.S.Swaminathan, Advocate SR NO. 2603

C.M.A.No.1873 of 2006

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